

Application No.: 10/774154

Case No.: 58561US004

Remarks

Favorable reconsideration of this application in the light of the amendments and the following discussion is respectfully requested. Claims 1-7 have been amended. Claims 1-10 remain pending in this application for consideration.

It was noted by the Examiner that the USPTO requests a copy of EP 03075848.6 for scanning into the IFW file for future reference. A copy is accordingly included herein.

Objections

Claim 1 was objected to because of the same informalities asserted in the Office Action dated July 9, 2004. The Examiner indicated that language in the abstract of the disclosure is inconsistent with the language of claim 1 that suggests that the long chain branching of the fluoropolymer is an optional feature of the present invention.

Applicants respectfully traversed the Examiner's assertion and asked for reconsideration of the claim and withdrawal of the objection. Applicants believe that the language of claim 1 specifically singled out by the Examiner is consistent with the language in the abstract of the disclosure. The language of the claim indicates that component (c) of the claim regarding comonomers is optional while the remainder of the claim is expressly directed to the fluoropolymer having long chain branches. Further, the specification expressly indicates that the fluoropolymers of the present invention are long chain branched (see page 8, line 4 through page 9, line 23).

The Examiner has maintained this objection despite the Applicants' comments otherwise. In order to facilitate the passing of this application to allowance, the Applicants have amended claim 1 by moving the reference to long chain branching from after the optional clause to before it. In light of the present amendment to claim 1, withdrawal of the objection is respectfully requested.

Claim Rejections Under 35 USC § 103

Claims 1-10 were rejected under 35 USC § 103(a) as being unpatentable over Bekiarian et al. (U.S. Patent 4,612,357) or Bekiarian et al. (EP 0 208 305 A2), each individually in view of Worm et al. (U.S. Patent 6,734,254).

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Regarding the parent claims 1 and 7, the Patent Office asserts that Bekiarian et al. in both the U.S. and E.P. patents, disclose the preparation of melt-processable, thermoplastic tetrafluoroethylene copolymers comprising units of tetrafluoroethylene, iodo(perfluoroalkyl)ethylene and optionally a third comonomer. The Patent Office further asserts that Bekiarian et al. (both U.S. and E.P.) disclose that the copolymers are melt-processible with melt viscosity that can be measured at the processing temperature of 320-400 °C.

The Patent Office admits that Bekiarian et al. (both U.S. and E.P.) are silent about using an olefin with a bromine or iodine atom bonded to the carbon atom of the double bond of the olefin or an olefin corresponding to formula (I) in claims 1 and 7.

To overcome the deficiencies of Bekiarian et al. (both U.S. and E.P.), the Patent Office relies on Worm et al. The Patent Office asserts that Worm teaches incorporating bromine and iodine into "fluoroplastic" by using monomers such as 4-bromo-3,3,4,4-tetrafluoro-1-butene, bromotrifluoroethylene (BTFE) and the like. The Patent Office asserts that these monomers read on the modifier structure of formula (I) in claim 1. It is clear from the rejection and the admission of the Patent Office that Bekiarian fails to disclose all of the elements of claims 1 and 7, that the 103(a) rejection depends critically on the availability of Worm as a reference.

The Patent Office further refers to the dependent claims as follows:

Regarding claim 2, tetrafluoroethylene and the like is specifically used as a major monomer.

Regarding claims 3-4, Worm has taught the use of BTFE as discussed in claim 1. In a close examination, BTFE fully reads on the claimed modifier's structure as described in claims 3 and 4.

Regarding claims 5-6 and 8, a third comonomer is included, thereby including hexafluoropropylene or a perfluorinated vinyl ether.

Regarding claim 7, the modifier monomers are used in an amount of not more than 0.03 wt %.

Regarding claims 9 and 10, the copolymers can be extruded into shaped articles such as a wire.

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Applicants' Response to the Claim Rejections Under 35 USC § 103

Applicants aver that claims 1–10 are patentable under 35 USC § 103(a) over Bekiarian et al. (U.S. Patent 4,612,357) or Bekiarian et al. (EP 0 208 305 A2), each individually in view of Worm et al. (U.S. Patent 6,277,937 B1).

The present invention has been distinguished over both the US and EP Bekiarian et al. patents for the reasons set forth in applicants' response the Office Action of July 9, 2004 (the response submitted October 12, 2004). The Examiner further admits differences between Bekiarian et al. (both U.S. and E.P.).

To overcome the deficiencies of Bekiarian et al., the Patent Office critically relies upon the description in Worm et al. Worm was filed on January 13, 2003 and patent rights were granted on May 11, 2004. The Worm application was not published. The present application was filed on February 6, 2004. As such, Worm would only qualify as prior art under 35 U.S.C. § 102(e).

Worm was, at the time of the present claimed invention, owned by the same company or subject to an obligation of assignment to the same company. Therefore, Worm is not available as a reference under 35 U.S.C. § 103(a). Accordingly, the Applicants respectfully request that the Patent Office withdraw the rejection of claims 1–10 under 35 USC § 103(a) over Bekiarian et al. (U.S. Patent 4,612,357) or Bekiarian et al. (EP 0 208 305 A2), each individually in view of Worm et al. (U.S. Patent 6,277,937 B1).

EVIDENCE OF COMMON OWNERSHIP

Application Number 10/774,154 and U.S. Patent 6,277,937 issued to Worm et al. on May 11, 2004, were, at the time of invention of Application Number 10/774,154 was made, subject to an obligation of assignment to the same company.

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Conclusion

In view of the foregoing remarks, favorable reconsideration of the present application and the passing of this case to issue with all claims allowed are courteously solicited.

Should the Examiner wish to discuss any aspect of this application, applicants' attorney suggests a telephone interview in order to expedite the prosecution of the application.

Respectfully submitted,

March 4, 2005

Date

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